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BRADY MURPHY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BRADY MURPHY

Plaintiff,

v.

ROHITA, LLC dba SWEET BASIL THAI

Defendant.

CASE NO.  
Civil Rights

**COMPLAINT FOR PRELIMINARY AND  
PERMANENT INJUNCTIVE RELIEF AND  
DAMAGES:**

- 1. Violations of Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*)**
- 2. Violation of the California Disabled Persons Act (Cal. Civil Code § 54 *et seq.*)**
- 3. Violation of the California Unruh Act (Cal. Civil Code §§ 51 and 52)**

**DEMAND FOR JURY TRIAL**

Plaintiff BRADY MURPHY complains of Defendant ROHITA, LLC dba SWEET BASIL THAI, and alleges as follows:

1. **INTRODUCTION:** On August 11, 2024, Plaintiff and his mother attempted to go out for dinner at Sweet Basil Thai located at 1736 Solano Ave #2215, Berkeley, CA 94707, California. During that visit, Defendant denied Plaintiff Brady Murphy equal access to Sweet Basil Thai because he is a disabled individual who uses a service dog to assist him with certain tasks related to his disability. Further, Defendant's employees treated Plaintiff with disrespect due to the presence of his service dog, offering qualitatively different services to him than they give to other non-disabled patrons. This included but was not limited to requiring Plaintiff and his

1 80-year-old mother to sit outside instead of inside the restaurant with his service dog unless  
2 Plaintiff could show him an ID “proving” that his service dog is in fact a service dog.

3 2. When Plaintiff and his mother arrived at Sweet Basil Thai, Plaintiff approached  
4 the host stand and requested to be seated inside. As is his usual practice, Plaintiff was  
5 accompanied by his service dog Regis. Defendant’s employee at the host stand told Plaintiff that  
6 parties accompanied by dogs are only allowed to be seated outside at Sweet Basil Thai. Plaintiff  
7 explained that Regis is a service dog and is therefore allowed to accompany him anywhere inside  
8 the restaurant that the public is allowed to go. Defendant’s employee then asked Plaintiff to  
9 provide an ID proving that Regis is a service animal so that his party could be seated inside.  
10 Plaintiff explained that the ADA does not require service dog users to provide an ID for their  
11 service dogs. Defendant’s employee told Plaintiff that she would check with the manager and  
12 then left the host stand.

13 3. Next, someone identifying themselves as the manager, on information and belief,  
14 Pom Goong, of Sweet Basil Thai approached Plaintiff, Plaintiff’s mother, and Regis at the host  
15 stand. Defendant’s manager confirmed that Plaintiff and his party would need to sit outside  
16 unless Plaintiff could provide an ID proving that Regis is a service dog. Plaintiff again explained  
17 that the ADA does not require him to provide any identification proving that his dog is a service  
18 dog. Defendant’s manager told Plaintiff that he would not seat the party inside the restaurant  
19 unless he provided an ID for Regis.

20 4. Plaintiff’s mother is elderly and gets cold easily. She did not want to sit outside,  
21 nor did Plaintiff want to force her to sit outside. Additionally, Plaintiff’s mother, who is diabetic,  
22 told her son that she really needed to eat something soon because she could feel that her glucose  
23 level was dropping. Plaintiff and his mother left Sweet Basil Thai without further argument so  
24 that they could find a restaurant that would welcome their business. Luckily, the group found a  
25 Thai restaurant nearby where they were welcomed to sit inside without issue.

26 5. The Defendant’s decision to require an ID for service dogs contravenes the  
27 Department of Justice’s technical assistance and guidance on the subject of “Service Animals.”  
28 In relevant part, the guidance states:

- 1 • A person with a disability cannot be asked to remove his service animal from the
- 2 premises unless: (1) the dog is out of control and the handler does not take
- 3 effective action to control it or (2) the dog is not housebroken. When there is a
- 4 legitimate reason to ask that a service animal be removed, staff must offer the
- 5 person with the disability the opportunity to obtain goods or services without the
- 6 animal's presence.
- 7 • Establishments that sell or prepare food must generally allow service animals in
- 8 public areas even if state or local health codes prohibit animals on the premises.
- 9 • People with disabilities who use service animals cannot be isolated from other
- 10 patrons, treated less favorably than other patrons, or charged fees that are not
- 11 charged to other patrons without animals.

12 DOJ 2010 "Service Animal" guidance available at [https://www.ada.gov/resources/service-](https://www.ada.gov/resources/service-animals-2010-requirements/)

13 [animals-2010-requirements/](https://www.ada.gov/resources/service-animals-2010-requirements/). Similarly, the DOJ's FAQs regarding Services Animals mirror these

14 requirements:

15 **Q17. Does the ADA require that service animals be certified as service**

16 **animals?**

17 A. No. Covered entities may not require documentation, such as proof that the

18 animal has been certified, trained, or licensed as a service animal, as a condition for

19 entry.

20 **There are individuals and organizations that sell service animal certification**

21 **or registration documents online. These documents do not convey any rights**

22 **under the ADA and the Department of Justice does not recognize them as**

23 **proof that the dog is a service animal.**

24 <https://www.ada.gov/resources/service-animals-faqs/>

25 6. Plaintiff loves Thai food, and Sweet Basil Thai is conveniently located close to

26 him home. Plaintiff intends to return to the restaurant in the future but cannot do so until the

27 policies of the restaurant are made accessible to disabled individuals who use service dogs,

28 including revision of its service dog policies and necessary employee training and/or re-training.

1 He has brought this lawsuit to force Defendant to change its discriminatory and illegal policies  
 2 and compensate him for refusing him equal access to service at the restaurant because he is a  
 3 disabled person who needs the assistance of his qualified service dog. Plaintiff seeks an  
 4 injunction to protect the rights of all disabled persons, including Plaintiff, when accompanied by a  
 5 qualified service dog at Sweet Basil Thai.

6 7. **JURISDICTION:** This Court has jurisdiction of this action pursuant to 28 U.S.C.  
 7 sections 1331 and 1343. This Court has jurisdiction over the claims brought under California law  
 8 pursuant to 28 U.S.C. § 1367.

9 8. **VENUE:** Venue is proper in this court pursuant to 28 U.S.C. section 1391(b) and  
 10 is proper because the real property which is the subject of this action is in this district and that  
 11 Plaintiff's causes of action arose in this district.

12 9. **INTRADISTRICT:** This case should be assigned to the Oakland intradistrict  
 13 because the real property which is the subject of this action is in this intradistrict and Plaintiff's  
 14 causes of action arose in this intradistrict.

15 10. **PARTIES:** Plaintiff Brady Murphy is a "qualified" disabled person who uses the  
 16 assistance of a service dog to alert him of the onset of seizures. He suffers from epilepsy which  
 17 causes Plaintiff to have grand mal seizures. Despite mitigation of his seizures with several  
 18 medications, Plaintiff still experiences one to two breakthrough seizures a month, and in times of  
 19 stress the frequency of his seizures can increase significantly. Plaintiff relies on his service dog, a  
 20 giant schnauzer named "Regis" to assist him with certain tasks related to his disability including  
 21 alerting him of the onset of a seizure, leading Plaintiff to a safe place to have the seizure or  
 22 alerting him to lie down on the ground and positioning himself to cushion Plaintiff if he falls.  
 23 Regis was professionally trained by several different trainers with significant assistance from  
 24 Plaintiff. Plaintiff and Regis have been working together for over five years. Plaintiff and Regis  
 25 reinforce their training together daily. Plaintiff is a qualified person with a disability as defined  
 26 under federal and state law. 42 U.S.C. § 12102, 29 U.S.C. § 705(9)(B), and California  
 27 Government Code § 12926(1).

28 11. Defendant ROHITA, LLC dba SWEET BASIL THAI, is and was at all times

1 relevant to this Complaint the owner, operator, lessor and/or lessee of the subject business located  
2 at 1736 Solano Ave #2215, Berkeley, CA 94707, California, known as Sweet Basil Thai.

3 12. Sweet Basil Thai is a place of “public accommodation” and a “business  
4 establishment” subject to the requirements *among other things* of multiple categories of 42 U.S.C.  
5 section 12181(7) of the Americans with Disabilities Act of 1990, of California Civil Code  
6 sections 51 *et seq.*, and of California Civil Code sections 54 *et seq.*

7 13. **FACTUAL STATEMENT:** Plaintiff Brady Murphy has been working with his  
8 service dog Regis for over five years. Regis is a six-year-old giant schnauzer who was trained to  
9 be a service dog since birth. Regis was both professionally trained by several trainers and  
10 individually trained by Plaintiff to be a service dog. Plaintiff has also continued to train Regis to  
11 serve his specific needs throughout their relationship. Regis is specifically trained to assist  
12 Plaintiff with certain tasks including alerting Plaintiff prior to the onset of a seizure, leading  
13 Plaintiff to a safe place or alerting him to lie down prior to a seizure, and cushioning Plaintiff’s  
14 fall if he collapses from a seizure.

15 14. Regis is a working dog; he is not a pet. Plaintiff and Regis have trained  
16 extensively together, and they supplement that training daily. Plaintiff takes Regis almost  
17 everywhere with him in public. It is important they stay together as much as possible because (a)  
18 Regis provides important services for Plaintiff; and (b) it is part of the training and bonding  
19 requirement that they be together constantly to maintain their bond. With few exceptions, where  
20 Plaintiff goes, Regis goes.

21 15. On August 11, 2024, Plaintiff and his mother had a plan to go out to dinner  
22 together. They decided to try a Thai restaurant that was near to Plaintiff’s home, so they drove to  
23 Sweet Basil Thai, found parking and entered the restaurant. When Plaintiff and his mother arrived  
24 at Sweet Basil Thai, Plaintiff approached the host stand and requested to be seated inside. As is  
25 his usual practice, Plaintiff was accompanied by his service dog Regis. Defendant’s employee at  
26 the host stand told Plaintiff that parties accompanied by dogs are only allowed to be seated  
27 outside at Sweet Basil Thai. Plaintiff explained that Regis is a service dog and is therefore  
28 allowed to accompany him anywhere inside the restaurant that the public is allowed to go.

1 Defendant's employee then asked Plaintiff to provide an ID proving that Regis is a service animal  
2 so that his party could be seated inside. Plaintiff explained that the ADA does not require service  
3 dog users to provide an ID for their service dogs. Defendant's employee told Plaintiff that she  
4 would check with the manager and left the host stand.

5 16. Next, someone identifying themselves as the manager of Sweet Basil Thai  
6 approached Plaintiff, his mother, and Regis at the host stand. Defendant's manager confirmed  
7 that Plaintiff and his party would need to sit outside unless Plaintiff could provide an ID proving  
8 that Regis is a service dog. Plaintiff again explained that the ADA does not require him to  
9 provide any identification proving that his dog is a service dog. Defendant's manager told  
10 Plaintiff that he would not seat the party inside the restaurant unless he provided an ID for Regis.

11 17. Plaintiff's mother is elderly and gets cold easily. She did not want to sit outside,  
12 nor did Plaintiff want to force her to sit outside. Additionally, Plaintiff's mother, who is diabetic,  
13 told her son that she really needed to eat something soon because she could feel that her glucose  
14 level was dropping. Plaintiff and his mother left Sweet Basil Thai without further argument so  
15 that they could find a restaurant nearby to enjoy their dinner. Luckily, the group found a Thai  
16 restaurant nearby where they were welcomed to sit inside without issue. However, their  
17 experience at Sweet Basil Thai put a damper on the evening. What should have been an enjoyable  
18 and rejuvenating evening catching up with his mother left Plaintiff feeling humiliated,  
19 emotionally exhausted, and depressed at not being allowed access to the restaurant with his  
20 service dog.

21 18. Plaintiff has a desire to return to Sweet Basil Thai enjoy the food. However,  
22 Plaintiff is afraid to go back to the restaurant because his previous experiences have made it clear  
23 that Defendant does not maintain a service animal policy that complies with state and federal  
24 access laws. It is also clear that Defendant's employees have not received training about how to  
25 interact with disabled patrons who rely on service dogs for assistance.

26 19. Plaintiff wishes to return to Sweet Basil Thai, but only *after* Defendant has  
27 implemented proper service animal policies and training of its staff. Plaintiff is deterred from  
28 returning to the restaurant until these policies and training are in place.

**FIRST CAUSE OF ACTION:  
VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990  
(42 U.S.C. §§ 12101 *et seq.*)**

20. Plaintiff repleads and incorporates by reference, as if fully set forth again here, the factual allegations contained in Paragraphs 1 through 19, above, and incorporates them here by reference as if separately replied hereafter.

21. In 1990 Congress passed the Americans with Disabilities Act after finding that laws were needed to more fully protect “some 43 million Americans with one or more physical or mental disabilities; that historically society has tended to isolate and segregate individuals with disabilities;” that “such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem”; that “the Nation’s proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living and economic self-sufficiency for such individuals”; and that “the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous.” 42 U.S.C. § 12101(a).

22. The ADA provides, “No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or leases to, or operates a place of public accommodation.” 42 U.S.C. § 12182.

23. Plaintiff is a qualified individual with a disability as defined in the Rehabilitation Act and in the Americans with Disabilities Act of 1990.

24. Sweet Basil Thai is a public accommodation under Title III of the ADA. 42 U.S.C. § 12181(7)(B).

25. The ADA prohibits, among other types of discrimination, “failure to make reasonable modifications in policies, practices or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities.” 42 U.S.C. § 12182(b)(2)(A)(ii).

26. Under the “2010 Revised ADA Requirements: Service Animals,” as published by the United States Department of Justice, and distributed by the DOJ’s Civil Rights Division, Disability Rights Section, “Generally, title II and title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.” ADA 2010 Revised Requirements, [www.ada.gov/service-animals-2010.htm](http://www.ada.gov/service-animals-2010.htm) Further,

**Under the ADA, State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go.**

*Ibid.*, emphasis in original.

27. Defendant has a policy and practice of denying access to patrons of Sweet Basil Thai with service animals. The Defendant’s decision to require an ID for service dogs contravenes the Department of Justice’s technical assistance and guidance on the subject of “Service Animals.” In relevant part, the guidance states:

- A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal’s presence.
- Establishments that sell or prepare food must generally allow service animals in public areas even if state or local health codes prohibit animals on the premises.
- People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals.

DOJ 2010 “Service Animal” guidance available at <https://www.ada.gov/resources/service-animals-2010-requirements/>. Similarly, the DOJ’s FAQs regarding Services Animals mirror these requirements:

**Q17. Does the ADA require that service animals be certified as service**



1           **animals?**

2           A. No. Covered entities may not require documentation, such as proof that the  
3           animal has been certified, trained, or licensed as a service animal, as a condition for  
4           entry.

5           **There are individuals and organizations that sell service animal certification**  
6           **or registration documents online. These documents do not convey any rights**  
7           **under the ADA and the Department of Justice does not recognize them as**  
8           **proof that the dog is a service animal.**

9           <https://www.ada.gov/resources/service-animals-faqs/>

10          28.     On information and belief, as of the date of Plaintiff's most recent visit to Sweet  
11          Basil Thai on or about August 11, 2024, Defendant continues to deny full and equal access to  
12          Plaintiff and to discriminate against Plaintiff on the basis of his disabilities, thus wrongfully  
13          denying to Plaintiff the full and equal enjoyment of the goods, services, facilities, privileges,  
14          advantages and accommodations of Defendant's premises, in violation of the ADA.

15          29.     In passing the Americans with Disabilities Act of 1990 ("ADA"), Congress stated  
16          as its purpose:

17                   It is the purpose of this Act

18                   (1) to provide a clear and comprehensive national mandate for the elimination of  
19                   discrimination against individuals with disabilities;

20                   (2) to provide clear, strong, consistent, enforceable standards addressing discrimination  
21                   against individuals with disabilities;

22                   (3) to ensure that the Federal Government plays a central role in enforcing the standards  
23                   established in this Act on behalf of individuals with disabilities; and

24                   (4) to invoke the sweep of congressional authority, including the power to enforce the  
25                   fourteenth amendment and to regulate commerce, in order to address the major areas of  
26                   discrimination faced day-to-day by people with disabilities.

27          42 U.S.C. § 12101(b).

28          30.     As part of the ADA, Congress passed "Title III - Public Accommodations and  
Services Operated by Private Entities" (42 U.S.C. § 12181 *et seq.*). The subject property and  
facility is one of the "private entities" which are considered "public accommodations" for

1 purposes of this title, which includes but is not limited to any “restaurant.” 42 U.S.C.  
 2 § 12181(7)(B).

3 31. The ADA states that “No individual shall be discriminated against on the basis of  
 4 disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages,  
 5 or accommodations of any place of public accommodation by any person who owns, leases, or  
 6 leases to, or operates a place of public accommodation.” 42 U.S.C. § 12182. The specific  
 7 prohibitions against discrimination include, but are not limited to the following:

8 § 12182(b)(1)(A)(ii): “Participation in Unequal Benefit. - It shall be discriminatory to afford an  
 9 individual or class of individuals, on the basis of a disability or disabilities of such individual or  
 10 class, directly, or through contractual, licensing, or other arrangements, with the opportunity to  
 11 participate in or benefit from a good, service, facility, privilege, advantage, or accommodation  
 12 that is not equal to that afforded to other individuals.”

13 § 12182(b)(2)(A)(ii): “a failure to make reasonable modifications in policies, practices, or  
 14 procedures when such modifications are necessary to afford such goods, services, facilities,  
 15 privileges, advantages, or accommodations to individuals with disabilities...;”

16 § 12182(b)(2)(A)(iii): “a failure to take such steps as may be necessary to ensure that no  
 17 individual with a disability is excluded, denied service, segregated, or otherwise treated  
 18 differently than other individuals because of the absence of auxiliary aids and services...;”

19 The acts and omissions of Defendant set forth here were in violation of Plaintiff’s rights  
 20 under the ADA and the regulations promulgated thereunder, 28 C.F.R. Part 36 *et seq.*

21 32. On information and belief, as of the dates of Plaintiff’s encounters at the premises  
 22 and as of the filing of this Complaint, Defendant’s actions, policies, and physical premises have  
 23 denied and continue to deny full and equal access to Plaintiff and to other disabled persons who  
 24 work with service dogs, which violates Plaintiff’s right to full and equal access and which  
 25 discriminates against Plaintiff on the basis of his disabilities, thus wrongfully denying to Plaintiff  
 26 the full and equal enjoyment of the goods, services, facilities, privileges, advantages and  
 27 accommodations, in violation of 42 U.S.C. sections 12182 and 12183 of the ADA.

28 33. Defendant’s actions continue to deny Plaintiff’s right to full and equal access by

1 deterring Plaintiff from patronizing Sweet Basil Thai and discriminated and continue to  
 2 discriminate against him on the basis of his disabilities, thus wrongfully denying to Plaintiff the  
 3 full and equal enjoyment of Defendant's goods, services, facilities, privileges, advantages and  
 4 accommodations, in violation of section 12182 of the ADA. 42 U.S.C. § 12182.

5 34. Under the Americans with Disabilities Act, 42 U.S.C. sections 12188 *et seq.*,  
 6 Plaintiff is entitled to the remedies and procedures set forth in section 204(a) of the Civil Rights  
 7 Act of 1964, 42 U.S.C. 2000(a)-3(a), as Plaintiff is being subjected to discrimination on the basis  
 8 of his disabilities in violation of sections 12182 and 12183 of this title. On information and  
 9 belief, Defendant has continued to violate the law and deny the rights of Plaintiff and other  
 10 disabled persons to "full and equal" access to this public accommodation since on or before  
 11 Plaintiff's encounters. Under section 12188(a)(2)

12 [i]n cases of violations of § 12182(b)(2)(A)(iv) and § 12183(a)... injunctive relief  
 13 shall include an order to alter facilities to make such facilities readily accessible to  
 14 and usable by individuals with disabilities to the extent required by this title. Where  
 15 appropriate, injunctive relief shall also include requiring the provision of an  
 auxiliary aid or service, modification of a policy, or provision of alternative  
 methods, to the extent required by this title.

16 35. Plaintiff seeks relief under remedies set forth in section 204(a) of the Civil Rights  
 17 Act of 1964 (42 U.S.C. 2000(a)-3(a)), and pursuant to Federal Regulations adopted to implement  
 18 the Americans with Disabilities Act of 1990. Plaintiff is a qualified disabled person for purposes  
 19 of section 12188(a) of the ADA who is being subjected to discrimination on the basis of disability  
 20 in violation of Title III and who has reasonable grounds for believing he will be subjected to such  
 21 discrimination each time that he may use the property and premises, or attempt to patronize Sweet  
 22 Basil Thai, in light of Defendant's policy barriers.

23 WHEREFORE, Plaintiff prays for relief as stated below.

24 **SECOND CAUSE OF ACTION:**  
 25 **DAMAGES AND INJUNCTIVE RELIEF**  
 26 **FOR DENIAL OF FULL AND EQUAL ACCESS TO PUBLIC FACILITIES IN A**  
**PUBLIC ACCOMMODATION**  
 (Civil Code §§ 54 *et seq.*)

27 36. Plaintiff re-pleads and incorporates by reference, as if fully set forth hereafter, the  
 28 factual allegations contained in Paragraphs 1 through 35 of this Complaint and all paragraphs of

1 the third cause of action, as plead infra, incorporates them herein as if separately re-pleaded.

2 37. Under the California Disabled Persons Act (CDPA), people with disabilities are  
3 entitled to the “full and free use of . . . public buildings, . . . public facilities, and other public  
4 places.” Civil Code § 54(a).

5 38. Civil Code section 54.1(a)(1) further guarantees the right of “full and equal  
6 access” by persons with disabilities to “accommodations, advantages, facilities . . . hotels, lodging  
7 places of accommodation, amusement or resort, or other places to which the general public is  
8 invited.” Civil Code § 54.1(c) also specifies that “individuals with a disability and persons  
9 authorized to train service dogs for individuals with a disability, may take dogs, for the purpose of  
10 training them as guide dogs, signal dogs, or service dogs in any of the places specified in  
11 subdivisions (a) and (b).”

12 39. Civil Code section 54.2(a) specifically protects the right of “every individual with  
13 a disability” “to be accompanied by a guide dog, signal dog, or service dog, especially trained for  
14 the purpose, in any of the places specified in Section 54.1.”

15 40. Civil Code section 54.3(b) makes liable “Any person or persons, firm or  
16 corporation who denies or interferes with admittance to or enjoyment of the public facilities as  
17 specified in Sections 54 and 54.1 or otherwise interferes with the rights of an individual with a  
18 disability under Sections 54, 54.1 and 54.2.” This section also specifies that, “[I]nterfere,” for  
19 purposes of this section, includes, but is not limited to, preventing or causing the prevention of a  
20 guide dog, signal dog, or service dog from carrying out its functions in assisting a disabled  
21 person.”

22 41. Sweet Basil Thai is a public accommodation within the meaning of the CDPA.  
23 On information and belief, Defendant is the owner, operator, lessor or lessee of the public  
24 accommodation.

25 42. Defendant made the decision to knowingly and willfully exclude Plaintiff and his  
26 service dog from its public accommodation and thereby deny Plaintiff his right of entrance into its  
27 place of business with his service dog. As a result of that decision Plaintiff has faced the  
28 continuing discrimination of being barred from entering this public accommodation and place of

1 business based on Defendant's illegal prohibition of his legally protected use of his service dog.  
2 Plaintiff has continued to suffer denial of access to these facilities, and faces the prospect of  
3 unpleasant and discriminatory treatment should he seek to return to these facilities. Plaintiff  
4 cannot return to Sweet Basil Thai until he receives the protection of this Court's injunctive relief,  
5 and he has continued to suffer discrimination daily since August 11, 2024, all to his statutory  
6 damages under California Civil Code §§ 54.1, 54.2, and 54.3.

7       43.     **INJUNCTIVE RELIEF:** Plaintiff seeks injunctive relief to prohibit the acts and  
8 omissions of Defendant as complained of here which are continuing on a day-to-day basis and  
9 which have the effect of wrongfully excluding Plaintiff and other members of the public who are  
10 disabled, who require the assistance of service animals, from full and equal access to these public  
11 facilities. Such acts and omissions are the cause of humiliation and mental and emotional  
12 suffering of Plaintiff in that these actions continue to treat Plaintiff as an inferior and second-class  
13 citizen and serve to discriminate against him on the sole basis that he is a person with disabilities  
14 who requires the assistance of a service animal.

15       44.     Plaintiff wishes to return to patronize Sweet Basil Thai but is deterred from  
16 returning to use these facilities, because the lack of access and the significant policy barriers will  
17 foreseeably cause him further difficulty, discomfort and embarrassment, and Plaintiff is unable,  
18 so long as such acts and omissions of Defendant continue, to achieve equal access to and use of  
19 these public facilities. Therefore, Plaintiff cannot return to patronize Sweet Basil Thai and its  
20 facilities and is deterred from further patronage until these facilities are made properly accessible  
21 for disabled persons, including Plaintiff and other disabled individuals who require the assistance  
22 of a service animal.

23       45.     The acts of Defendant has proximately caused and will continue to cause  
24 irreparable injury to Plaintiff if not enjoined by this Court. Plaintiff seeks injunctive relief as to  
25 Defendant's inaccessible policies. As to Defendant that currently owns, operates, and/or leases  
26 (from or to) the subject premises, Plaintiff seeks preliminary and permanent injunctive relief to  
27 enjoin and eliminate the discriminatory practices that deny full and equal access for disabled  
28 persons, and seeks an award of reasonable statutory attorney fees, litigation expenses and costs.

46. Wherefore Plaintiff asks this Court to preliminarily and permanently enjoin any continuing refusal by Defendant to grant full and equal access to Plaintiff in the ways complained of and to require Defendant to comply immediately with the applicable statutory requirements relating to access for disabled persons. Such injunctive relief is provided by California Civil Code sections 54.1, 54.2 and 55, and other laws. Plaintiff further requests that the Court award damages under Civil Code section 54.3 and other law and attorney fees, litigation expenses, and costs under Civil Code sections 54.3 and 55, Code of Civil Procedure section 1021.5 and other law, all as prayed below for.

47. **DAMAGES:** Because of the denial of full and equal access to the described facilities and due to the acts and omissions of Defendant in owning, operating, leasing, constructing, altering, and/or maintaining the subject facilities, Plaintiff has suffered a violation of his civil rights, including, but not limited to, rights under Civil Code sections 54 and 54.1, and has suffered difficulty, discomfort and embarrassment, and physical, mental and emotional personal injuries, all to his damages per Civil Code section 54.3, including general and statutory damages, as stated below. Defendant's actions and omissions to act constitute discrimination against Plaintiff because he was and is disabled and unable, because of the policy barriers created and/or maintained by Defendant in violation of the subject laws, to use the public facilities on a full and equal basis as other persons. The violations have deterred Plaintiff from returning to attempt to patronize Sweet Basil Thai and will continue to cause him damages each day these barriers to access and policy barriers are still present.

48. Although Plaintiff need not prove wrongful intent to show a violation of California Civil Code sections 54 and 54.1 or of Title III of the ADA (*see Donald v. Café Royale*, 218 Cal. App. 3d 168 (1990)), Defendant's behavior was intentional. Defendant was aware and/or was made aware of its duties to refrain from establishing discriminatory policies against disabled persons, before this complaint was filed. Defendant's establishment of its discriminatory policy to deny and restrict entry to persons with service dogs, and its implementation of such a discriminatory policy against Plaintiff, indicate actual and implied malice toward Plaintiff and conscious disregard for his rights and safety.

49. **FEES AND COSTS:** As a result of Defendant's acts, omissions, and conduct, Plaintiff has been required to incur attorney fees, litigation expenses, and costs as provided by statute, in order to enforce Plaintiff's rights and to enforce provisions of the law protecting access for disabled persons and prohibiting discrimination against disabled persons. Plaintiff therefore seeks recovery of all reasonable attorney fees, litigation expenses, and costs, under Civil Code sections 54.3 and 55. Additionally, Plaintiff's lawsuit is intended to require that Defendant make its facilities accessible to all disabled members of the public, justifying "public interest" attorney fees, litigation expenses and costs under California Code of Civil Procedure section 1021.5 and other applicable law.

50. Plaintiff suffered damages as above described as a result of Defendant's violations. Damages are ongoing based on his deterrence from returning to Sweet Basil Thai.

WHEREFORE, Plaintiff prays for relief as stated below.

**THIRD CAUSE OF ACTION:  
VIOLATION OF CALIFORNIA LAW INCLUDING: THE UNRUH ACT, CIVIL  
CODE SECTIONS 51 AND 52, AND THE AMERICANS WITH DISABILITIES  
ACT AS INCORPORATED  
BY CIVIL CODE SECTION 51(f)**

51. Plaintiff re-pleads and incorporates by reference, as if fully set forth again here, the allegations contained in Paragraphs 1 through 50 of this Complaint and incorporates them herein as if separately re-pleaded.

52. At all times relevant to this action, the Unruh Civil Rights Act, California Civil Code § 51(b), provided that:

All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, or medical condition are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

53. California Civil Code section 52 provides that the discrimination by Defendant against Plaintiff on the basis of his disability constitutes a violation of the general anti-discrimination provisions of sections 51 and 52.

54. Each of Defendant's discriminatory acts or omissions constitutes a separate and distinct violation of California Civil Code section 52, which provides that:



Whoever denies, aids or incites a denial, or makes any discrimination or distinction contrary to section 51, 51.5, or 51.6 is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than four thousand dollars (\$4,000), and any attorney's fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51, 51.5, or 51.6.

55. Any violation of the Americans with Disabilities Act of 1990 constitutes a violation of California Civil Code section 51(f), thus independently justifying an award of damages and injunctive relief under California law, including Civil Code section 52. Per Civil Code section 51(f), "A violation of the right of any individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section."

56. The actions and omissions of Defendant as alleged here constitute a denial of access to and use of the described public facilities by disabled persons who use service dogs under California Civil Code sections 51 and 52. As a proximate result of Defendant's action and omissions, Defendant has discriminated against Plaintiff in violation of Civil Code sections 51 and 52, and is responsible for statutory and compensatory damages to Plaintiff, according to proof.

57. **FEES AND COSTS:** As a result of Defendant's acts, omissions and conduct, Plaintiff has been required to incur attorney fees, litigation expenses and costs as provided by statute to enforce Plaintiff's rights and to enforce provisions of law protecting access for disabled persons and prohibiting discrimination against disabled persons. Plaintiff therefore seeks recovery of all reasonable attorney fees, litigation expenses and costs under California Civil Code sections 51 and 52. Additionally, Plaintiff's lawsuit is intended to require that Defendant make its facilities and policies accessible to all disabled members of the public, justifying "public interest" attorney fees, litigation expenses and costs under California Code of Civil Procedure section 1021.5 and other applicable law.

58. Plaintiff suffered damages as above-described as a result of Defendant's violations.

WHEREFORE, Plaintiff prays for relief as stated below.

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**PRAYER**

Plaintiff has no adequate remedy at law to redress the wrongs suffered as stated in this Complaint. Plaintiff has suffered and will continue to suffer irreparable injury because of the unlawful acts, omissions, policies, and practices of Defendant as alleged herein, unless Plaintiff is granted the relief he requests. Plaintiff and Defendant have an actual controversy and opposing legal positions on Defendant's violations of the laws of the United States and the State of California. The need for relief is critical because the rights at issue are paramount under the laws of the United States and the State of California.

WHEREFORE, Plaintiff Brady Murphy prays for judgment and the following specific relief against Defendant:

1. An order enjoining Defendant, its agents, officials, employees, and all persons acting in concert with them:
  - a. From continuing the unlawful acts, conditions, and practices described in this Complaint;
  - b. To modify its policies and practices to accommodate service dog users in conformity with federal and state law, and to advise Plaintiff that his service dog will not be excluded should he desire to enter and use the services of Sweet Basil Thai;
  - c. That the Court issue preliminary and permanent injunction directing Defendant as current owner, operator, lessor, and/or lessee and/or its agents of the subject property and premises to modify the above described property, premises, policies and related policies and practices to provide full and equal access to all persons, including persons with disabilities; and issue a preliminary and permanent injunction under ADA section 12188(a) and state law directing Defendant to provide facilities usable by Plaintiff and similarly situated persons with disabilities, and which provide full and equal access, as required by law, and to maintain such accessible facilities once they are provided and to train Defendant's employees and agents in how to recognize disabled persons and accommodate

their rights and needs;

d. An order retaining jurisdiction of this case until Defendant has fully complied with the orders of this Court, and there is a reasonable assurance that Defendant will continue to comply in the future absent continuing jurisdiction;

2. An award to Plaintiff of statutory, actual, general, treble, and punitive damages in amounts within the jurisdiction of the Court, all according to proof;

3. An award to Plaintiff pursuant to 42 U.S.C. § 12205, 29 U.S.C. § 794a, California Civil Code §§ 52 and 54.3, California Code of Civil Procedure § 1021.5, and as otherwise permitted by law, of the costs of this suit and reasonable attorneys' fees and litigation expenses;

4. An award of prejudgment interest under Civil Code § 3291;

5. Interest on monetary awards as permitted by law; and

6. Grant any other relief that this Court may deem just and proper.

Date: September 10, 2024

REIN & CLEFTON

/s/ Aaron M. Clefton  
By AARON M. CLEFTON, Esq.  
Attorneys for Plaintiff  
BRADY MURPHY

### JURY DEMAND

Plaintiff demands a trial by jury for all claims for which a jury is permitted.

Date: September 10, 2024

REIN & CLEFTON

/s/ Aaron M. Clefton  
By AARON M. CLEFTON, Esq.  
Attorneys for Plaintiff  
BRADY MURPHY